

Magistrate Judge Mary Alice Theiler

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff

v.

MICHAEL DEVION MACKAY,
Defendant(s).

CASE NO. MJ23-255

COMPLAINT for VIOLATION

Title 18, U.S.C. Sections 1341, 1028A

BEFORE, Mary Alice Theiler, United States Magistrate Judge, U.S. Courthouse,
Seattle, Washington.

The undersigned complainant being duly sworn states:

COUNT ONE

(Mail Fraud)

A. The Scheme and Artifice to Defraud

1. Beginning at a time unknown, and continuing through on or about
November 16, 2022, in Snohomish County, within the Western District of Washington,
and elsewhere, MICHAEL DEVION MACKAY, with intent to defraud, knowingly
devised and executed a scheme and artifice to defraud and to obtain monies by means of

1 materially false and fraudulent pretenses, representations, and promises, as further and
2 more particularly set forth below.

3 2. The essence of the scheme and artifice to defraud was for MACKAY to
4 unjustly enrich himself by accessing a bank account belonging to Victim 1 and changing
5 the address on the account, and then ordering a debit card on that account to be mailed to
6 MACKAY's residence. It was also part of the scheme to conceal MACKAY's use of the
7 bank account and debit card.

8 **B. Manner and Means of the Scheme and Artifice to Defraud**

9 3. It was a part of the scheme and artifice to defraud that MACKAY obtained
10 the credentials to the bank account of Victim 1.

11 4. It was further part of the scheme and artifice to defraud that MACKAY
12 accessed the online bank account for Victim 1.

13 5. It was further part of the scheme and artifice to defraud that MACKAY
14 changed the address on the bank account for Victim 1 to MACKAY's own address.

15 6. It was further part of the scheme and artifice to defraud that MACKAY
16 requested that a debit card be sent to MACKAY for Victim 1's bank account.

17 7. It was further part of the scheme and artifice to defraud that MACKAY
18 received the debit card for Victim 1's bank account

19 8. It was further part of the scheme and artifice to defraud that MACKAY
20 used the debit card for the account belonging to Victim 1 to access an account and obtain
21 funds from that account.

22 9. The scheme and artifice to defraud resulted in at least \$4,500 in actual
23 losses. Victim 1 neither authorized MACKAY to access his account to change the
24 address nor authorized MACKAY to receive and use a debit card in the name Victim 1.

25 **C. Execution of the Scheme and Artifice to Defraud**

26 6. On or about the date identified below, in Snohomish County, within the
27 Western District of Washington, and elsewhere, MACKAY for the purpose of executing

and attempting to execute this scheme and artifice to defraud, and for the purpose of carrying out and attempting to carry out this scheme and artifice to obtain monies by means of materially false and fraudulent pretenses, representations and promises, did knowingly caused to mailed the following:

COUNT	DATE	SENDER	RECIPIENT	MAILED MATTER
1	On or about November 16, 2022	Bank of America in Addison, TX	MICHAEL D. MACKAY in Edmonds, WA	Bank of America debit card ending in number 2330

All in violation of Title 18, United States Code, Section 1341.

COUNTS 2-5

(Aggravated Identity Theft)

8. On or about the below dates, in Snohomish County, within the Western District of Washington, and elsewhere, MICHAEL D. MACKAY did knowingly transfer, possess, and use, without lawful authority, a means of identification of another person specified below—who is a real person—during and in relation to the specified violation of Title 18, United States Code, Section 1341 that is charged above. These offenses were committed during the course of and in furtherance of the scheme and artifice to defraud charged in Count 1.

COUNT	DATE	MEANS OF IDENTIFICATION & RELATED COUNT
2	12/6/2022	Victim 1's Bank of America debit card ending in 2330 that MACKAY obtained and used without consent to access account 7004. (charged in Count 1)
3	12/7/2022	Victim 1's Bank of America debit card ending in 2330 that MACKAY obtained and used without consent to access account 7004. (charged in Count 1)

4	12/16/2022	Victim 1's Bank of America debit card ending in 2330 that MACKAY obtained and used without consent to access account 7004. (charged in Count 1)
5	12/19/2022	Victim 1's Bank of America debit card ending in 2330 that MACKAY obtained and used without consent to access account 7004. (charged in Count 1)

All in violation of Title 18, United States Code, Section 1028A(a)(1).

And the complainant states that this Complaint is based on the following information:

I, AMY J. KERKOF, being first duly sworn on oath, depose and say:

AFFIANT BACKGROUND

9. I am a Postal Inspector with the United States Postal Inspection Service (USPIS) and have been since March 2008. I am currently assigned to the Seattle Division Headquarters office of the United States Postal Inspection Service. As a Postal Inspector, I am empowered by 18 U.S.C. § 3061 to conduct investigations and to make arrests for offenses against the United States. As part of my duties, I investigate incidents where the United States mail system is used to facilitate criminal activity to include, mail fraud, identity theft, bank fraud, and wire fraud. I am a graduate of Western Washington University and hold a bachelor's degree in sociology and psychology. My training includes, but is not limited to, the successful completion of the 12-week Basic Inspector Training through the Inspection Service Career Development Unit in Maryland. Since my employment with the United States Postal Inspection Service, I have received extensive training in investigating mail theft, identity theft, bank fraud, mail fraud, credit card fraud and conspiracy to commit such crimes.

INTRODUCTION AND PURPOSE OF AFFIDAVIT

10. I submit this affidavit in support of a criminal complaint charging MICHAEL D. MACKAY with mail fraud in violation of 18 U.S.C § 1341, and

1 aggravated identity theft in violation of 18 U.S.C § 1028A(a)(1), and the issuance of an
2 arrest warrant for MACKAY. I did not include all the relevant facts known to me or other
3 members of law enforcement regarding this investigation. I set forth in this affidavit only
4 those facts necessary to support probable cause for the requested criminal complaint and
5 arrest warrant.

6 11. The facts set forth in this affidavit are based on my own personal
7 knowledge; knowledge obtained from other individuals during my participation in this
8 investigation, including other law enforcement officers; interviews of witnesses; my
9 review of records related to this investigation; communications with others who have
10 knowledge of the events and circumstances described herein; and information gained
11 through my training and experience.

12 **SUMMARY OF PROBABLE CAUSE**

13 12. On or about March 20, 2023, the United States Postal Inspection Service
14 received a complaint from J.C., a Bank of America fraud investigator. J.C. explained
15 there had been an unauthorized account takeover of an account belonging to First
16 Christian Church and Seminary, later identified as account number 0000 XXXX 7004.
17 According to J.C., the address change on the account was the first step in a fraudulent
18 account takeover. Several large dollar wires and other transactions were attempted and
19 transmitted totaling over \$333,000.

20 13. On or about March 30, 2023, I received account records, including video of
21 ATM transactions from the account. My review of these records revealed the following:

22 14. Beginning on or around September 2022, the address of the First Christian
23 Church and Seminary Account, account number 0000 XXXX 7004, at Bank of America
24 was changed from 827 NW 195th St Shoreline, WA 98177 to 7902 198th St SW Edmonds,
25 WA 98026. The accountholders on the First Christian Church and Seminary account are
26 Victim 1 and Victim 2.
27

1 15. A review of law enforcement databases shows that 7902 198th St SW
2 Edmonds, WA 98026 is a residence owned by Douglas and Mary Mackay, who have two
3 sons, Jonathan and Michael Mackay.

4 16. On or around November 15, 2022, an online request for a new debit card
5 was made corresponding to Bank of America account 0000 XXXX 7004. According to
6 Bank of America records, the new card was mailed from Addison, Texas via USPS to
7 7902 198th St SW Edmonds, WA 98026. The card mailed to this address is card number
8 4701 XXXX XXXX 2330.

9 17. There were many different types of fraudulent transactions that occurred on
10 this account. I will be discussing four ATM cash withdrawals, using the above debit card.
11 These transactions occurred as follows:

12 18. On December 6, 2022, a \$1,400 ATM withdrawal was made at a Bank of
13 America ATM in Lynnwood, WA. On December 7, 2022, a \$1,500 ATM withdrawal was
14 made at the same Bank of America ATM. On December 16, 2022, an \$800 ATM
15 withdrawal was made at a Bank of America ATM in Edmonds, WA. On December 19,
16 2022, an \$800 ATM withdrawal was made at the Bank of America ATM in Lynnwood,
17 WA, where the first two withdrawals were made. Bank of America provided surveillance
18 video for each of the above-mentioned transactions. A review of the surveillance video
19 showed the transactions were completed by a young white male.

20 19. On March 30, 2023, I requested identification from Washington
21 Department of Licensing (DOL) for both Jonathan and Michael Mackay. I compared the
22 ATM video with the ID Card photos provided by Washington DOL. From the pictures I
23 identified MACKAY conducting all four ATM transactions.

24 20. I reviewed the ATM video of the December 6, 2022 transaction and
25 compared the ATM video with the ID Card photos provided by Washington DOL. Again,
26 I identified MACKAY conducting the ATM transaction. The ATM video shows
27 MACKAY is wearing a red Nike sweatshirt, a green Carhart hat and holding a distinctive

1 wallet, which appears to be black with a white coating or finish. Bank records for this
2 ATM transaction show it was conducted with the debit card ending in 2330, which is the
3 same debit card mailed to 7902 198th St SW Edmonds, WA 98026.

4 21. I reviewed the ATM video of the December 7, 2022 transaction and
5 compared the ATM video with the ID Card photos provided by Washington DOL. Again,
6 I identified MACKAY conducting the ATM transaction. The ATM video shows
7 MACKAY is wearing a red Nike sweatshirt and holding what appears to be the same
8 distinctive black wallet with a white/silver color finish. Bank records for this ATM
9 transaction show it was conducted with the debit card ending in 2330, which is the same
10 debit card mailed to 7902 198th St SW Edmonds, WA 98026.

11 22. I reviewed the ATM video of the December 16, 2022 transaction and
12 compared the ATM video with the ID Card provided by Washington DOL. Again, I
13 identified MACKAY conducting the ATM transaction. The ATM video shows
14 MACKAY is wearing a black and white skull sweatshirt with a white skull in the front
15 with red eyes, red eyes on the sleeves, and a decorative cross on the back. Bank records
16 for this ATM transaction show it was conducted with the debit card ending in 2330,
17 which is the same debit card mailed to 7902 198th St SW Edmonds, WA 98026.

18 23. I reviewed the ATM video of the December 19, 2022 transaction and
19 compared the ATM video with the ID Card provided by Washington DOL. Again, I
20 identified MACKAY conducting the ATM transaction. The ATM video shows
21 MACKAY is wearing what appears to be the same black and white skull sweatshirt with
22 a white skull in the front with red eyes, red eyes on the sleeves, and a decorative cross on
23 the back. In this video, you can see the suspect's state identification inside his wallet,
24 which is the same distinct black wallet observed in the prior videos. A comparison of the
25 state identification in MACKAY'S wallet to the Washington DOL identification card for
26 Michael Mackay show a similarity in the shape of the head, particularly in the outline of
27 the hair. Bank records for this ATM transaction show it was conducted with the debit

1 card ending in 2330, which is the same debit card mailed to 7902 198th St SW Edmonds,
2 WA 98026.

3 24. On April 19, 2023, Inspectors contacted the victim and confirmed they did
4 not authorize anyone to order or use a debit card on bank account 7004.

5 25. On May 11, 2023, I applied for and was granted a search warrant for the
6 following: 7902 198th St SW Edmonds, WA 98026 (the address to which the debit card
7 was sent); 5623 198th Pl SW, Lynnwood, WA 98037; and the person of MICHAEL D.
8 MACKAY.

9 26. On May 17, 2023, the search warrants for the above locations and person
10 were executed. MACKAY was detained, Mirandized, and asked if he would agree to an
11 interview with inspectors. MACKAY agreed to the interview and to have the interview
12 recorded.

13 27. During the course of the interview, MACKAY admitted he obtained a used
14 laptop belonging to Victim 1 from a thrift store. MACKAY was able to access Victim 1s
15 Bank of America account ending 7004 online and changed the address on the account to
16 7902 198th St SW Edmonds, WA 98026. MACKAY explained he then ordered a debit for
17 that account and had it mailed to the same address.

18 28. Inspectors showed MACKAY the below photos taken from the ATM video
19 related to the ATM cash withdrawals described above. The first photo is from the ATM
20 cash withdrawal taken on December 16, 2022. The second photo is from the ATM cash
21 withdrawal taken on December 7, 2022.

22 //

23 //

24 //

25 //



29. During the course of our interview, MACKAY admitted that he made the ATM withdrawals, and he is the one seen in the ATM video. Both the red Nike sweatshirt and the black and white skull sweatshirt were recovered from the bedroom belonging to MACKAY at the 7902 198th St SW Edmonds, WA 98026 residence during the execution of the search warrant.

30. During the search warrant executed at the residence located at 7902 198th St SW, Edmonds, WA 98026, in the bedroom belonging to MACKAY, inspectors found (1) a forged Washington driver's license containing a photo of MACKAY, but the name of

Victim 1, and (2) a Visa debit card for Sutton Bank ending in 7500 in the name of Victim 1.

CONCLUSION

31. Based on the facts above, I respectfully submit that there is probable cause to believe that MICHAEL D. MACKAY did knowingly and intentionally commit mail fraud, violation of 18 U.S.C. § 1341 and aggravated identity theft in violation of 18 U.S.C. § 1028A(a)(1). I therefore respectfully request that the Court issue a complaint charging MACKAY with those offenses and an arrest warrant for MACKAY.



Digitally signed by Amy J.
Kerkof
Date: 2023.05.23 17:24:55
-07'00'

Amy J. Kerkof, Complainant
Postal Inspector,
U.S. Postal Inspection Service

Based on the Complaint and Affidavit sworn to before me, and subscribed in my presence, the Court hereby finds that there is probable cause to believe the Defendant committed the offense set forth in the Complaint.

Dated this 24th day of May, 2023.



MARY ALICE THEILER
United States Magistrate Judge